



FEDERAL ELECTION COMMISSION
Washington, DC 20463

William J. Farah
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AUG 09 2016

RE: MUR 6918

Schock Victory Committee and
Paul Kilgore in his official capacity
as treasurer

GOP Generation Y Fund and
Paul Kilgore in his official capacity
as treasurer

Dear Mr. Farah:

On March 3, 2015, the Federal Election Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information provided by you on behalf of your clients, the Commission, on July 12, 2016, found that there is reason to believe that Schock Victory Committee and Paul Kilgore in his official capacity as treasurer and GOP Generation Y Fund and Paul Kilgore in his official capacity as treasurer violated 52 U.S.C. § 30114(c)(2) and 11 C.F.R. § 113.5. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Please note that your client has a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

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If your clients are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to you on behalf of the respondents.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

If you have any questions, please contact Kimberly Hart, the attorney assigned to this matter, at (202) 694-1650.

On behalf of the Commission,



Matthew Petersen
Chair

Enclosure
Factual and Legal Analysis

cc: Aaron Schock

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

1 **FEDERAL ELECTION COMMISSION**
2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENTS:** Schock Victory Committee and Paul Kilgore **MUR: 6918**
4 in his official capacity as treasurer
5 GOP Generation Y Fund and Paul Kilgore
6 in his official capacity as treasurer
7

8 **I. INTRODUCTION**
9

10 Complainant alleges that between 2012 and 2014 then-Representative Aaron Schock used
11 various non-commercial aircraft to travel on behalf of his authorized campaign committee
12 (Schock for Congress), joint fundraising committee (Schock Victory Committee), or leadership
13 PAC (GOP Generation Y Fund), in violation of the Federal Election Campaign Act of 1971, as
14 amended (the "Act"), and Commission regulations.

15 In a joint response, Schock for Congress, Schock Victory Committee, and GOP
16 Generation Y Fund neither confirm nor deny any factual details regarding Schock's alleged
17 campaign travel on non-commercial flights, but rather argue that the Complaint fails to establish
18 reason to believe that such non-commercial campaign flights violate the law.

19 Based on the available information, the Commission found reason to believe that Schock
20 Victory Committee and Paul Kilgore in his official capacity as treasurer and GOP Generation Y
21 Fund and Paul Kilgore in his official capacity as treasurer each violated 52 U.S.C. § 30114(c)(2)
22 and 11 C.F.R. § 113.5(b) by making expenditures for non-commercial campaign flights.

23 **II. BACKGROUND**

24 In 2012 and 2014, Aaron Schock was a sitting Congressman and candidate for re-election
25 to the 18th Congressional District of Illinois. Schock for Congress and Paul Kilgore in his
26 official capacity as treasurer ("Schock for Congress") was Schock's principal campaign

1 committee.¹ GOP Generation Y Fund and Paul Kilgore in his official capacity as treasurer
2 (“Generation Y”) is registered with the Commission as a leadership PAC associated with
3 Schock.² Schock Victory Committee and Paul Kilgore in his official capacity as treasurer
4 (“Schock Victory Committee”) is a joint fundraising committee established under 11 C.F.R.
5 § 102.17; Schock for Congress and Generation Y are each participants in Schock Victory
6 Committee.³

7 Between 2012 and 2013, Generation Y made five disbursements totaling \$5,887.80 to
8 Lobair LLC (“Lobair”), and two disbursements totaling \$3,391 to D&B Jet, Inc. (“D&B Jet”),
9 for the purpose of “PAC Airfare.” Further, in 2014, Schock Victory Committee made a single
10 disbursement to Lobair in the amount of \$2,826.63 for “JFC Airfare.” These disbursements are
11 detailed in the chart below.

<u>DATE</u>	<u>PAYOR</u>	<u>PAYEE</u>	<u>REPORT</u>	<u>AMOUNT</u>
08/08/2012	Generation Y	Lobair	September 2012 Monthly	\$1,815.00
10/04/2012	Generation Y	D&B Jet	2012 Pre-General	\$1,558.63
10/30/2012	Generation Y	Lobair	2012 Post-General	\$1,125.25
11/15/2012	Generation Y	D&B Jet	2012 Post-General	\$1,832.53
01/08/2013	Generation Y	Lobair	February 2013 Monthly	\$932.80
01/15/2013	Generation Y	Lobair	February 2013 Monthly	\$935.00

¹ See Statement of Candidacy, Aaron Jon Schock (Nov. 23, 2010); Statement of Candidacy, Aaron Jon Schock (Dec. 11, 2012); Statement of Organization, Schock for Congress (Feb. 3, 2015). Schock won both elections but resigned his office effective March 31, 2015.

² See Amended Statement of Organization, GOP Generation Y Fund (Aug. 21, 2014).

³ See Amended Statement of Organization, Schock Victory Committee (Feb. 20, 2015). At the time of the alleged violations, Schock Victory Committee was comprised of Schock for Congress, GOP Generation Y Fund, 18th District Republican Central Committee and the National Republican Congressional Committee. See Amended Statement of Organization, Schock Victory Committee (June 10, 2011).

05/17/2013	Generation Y	Lobair	June 2013 Monthly	\$1,079.75
01/08/2014	Schock Victory Committee	Lobair	April 2014 Quarterly	\$2,826.63
			TOTAL	\$12,105.59

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2 According to information contained in the Complaint, Lobair is a limited liability
3 company that consists of a single Cessna airplane owned by an individual in Peoria, Illinois, is
4 not a commercial charter service, and is not registered with the Federal Aviation Administration
5 ("FAA") for commercial use.⁴ D&B Jet is registered as a corporation in the state of Illinois with
6 Daren R. Frye as its President and registered agent, and Rebecca Frye as its Secretary.⁵
7 Complainant notes that it found no commercial or charter operation registration for D&B Jet in
8 FAA records.⁶

9 Schock for Congress, Schock Victory Committee, and Generation Y Fund filed a joint
10 response that does not deny that Schock was a passenger on non-commercial aircraft owned by
11 Lobair or D&B Jet, or that those flights were campaign-related. Nor do Respondents argue that
12 these flights qualify for any exception to the prohibition on using non-commercial flights for

⁴ The Complaint bases these assertions on a *USA Today* article regarding Schock's use of the Lobair airplanes for travel, and publicly available records from the Illinois Secretary of State, and the FAA. The website of the Illinois Secretary of State indicates that Lobair's principals are Vonachen Services, Inc. and Michael Miller. See "Corporation File Detail Report" for Lobair LLC at <http://www.ilsos.gov/corporatellc/CorporateLlcController>. The FAA's publicly available website allows visitors to search the FAA registry for specific aircraft by name of owner and make and model, among other things. The Commission's search of relevant information about Lobair on the FAA's website shows no aircraft registered to Lobair as a commercial carrier.

⁵ See "Corporation File Detail Report" for D&B Jet, Inc. at <http://www.ilsos.gov/corporatellc/CorporateLlcController>.

⁶ The Commission did not find any record of D&B Jet in the FAA's publicly available database, though D&B Jet reportedly has a relationship with Jet Air, Inc., an aviation firm licensed by the FAA for commercial operations, who sometimes uses the D&B Jet aircraft for charter services. Compl. at 6. The Complaint asserts that it does not appear that Schock's payments for the use of the plane were in conjunction with Jet Air's charter service. The owner of Jet Air, Inc. has stated that "any charter flights D&B flies through [Mr. Timmons'] firm are paid directly to Jet Air," suggesting that payments made directly to D&B Jet were not for commercial charter flights. *Id.*

1 campaign activity.⁷ Instead, Respondents assert that the law regarding such flights is unclear
2 following changes to internal House Ethics Rules in 2013 which lift the previous restrictions on
3 its Members traveling on private, non-commercial aircraft, if Members pay the full charter rate.⁸
4 The Joint Response asserts that the 2013 change in House rules establishes that no contribution
5 results so long as the appropriate value is paid.⁹

6 III. ANALYSIS

7 The Honest Leadership and Open Government Act of 2007 ("HLOGA") amended the
8 Act to generally prohibit House candidates from making any expenditure for non-commercial
9 aircraft travel.¹⁰ The Commission's implementing regulations similarly generally prohibit
10 campaign travelers who are House candidates from traveling on non-commercial aircraft¹¹ on
11 behalf of their own campaigns or the campaigns of other candidates for the House of
12 Representatives.

⁷ The Respondents do not challenge the assertion that the Lobair and D&B Jet aircraft were non-commercial. Further, the record does not establish that either entity had an FAA license to provide commercial charter services.

⁸ Joint Resp. at 1, 7; *see also* House Rule XXIII, Clause 15, Rules of the One Hundred Thirteenth Congress.

⁹ Joint Resp. at 3. Respondents assert that the Commission's rules are outdated and conflict with the 2013 change to the House rules. *Id.* at 7. Respondents further contend that the Complaint seeks to create a burdensome, complicated standard beyond that contemplated by Congress. *Id.* at 8.

¹⁰ 52 U.S.C. § 30114(c)(2). The prohibition does not apply to expenditures for travel on aircraft operated by a Federal or state government entity, or owned or leased by the candidate or the candidate's immediate family member. *Id.* § 30114(c)(2)(B), (3). HLOGA became effective on September 14, 2007.

¹¹ 11 C.F.R. §§ 100.93(c)(2) and 113.5(b); *see also id.* § 100.93(e) (providing for travel on aircraft operated by government entity), 100.93(g) (providing for travel on aircraft owned or leased by candidate or immediate family member). The regulations became effective on January 6, 2010. *See Explanation and Justification for Campaign Travel*, 74 Fed. Reg. 63951 (Dec. 7, 2009). Commercial travel is defined as travel aboard "an aircraft operated by an air carrier or commercial operator certificated by the Federal Aviation Administration, provided that the flight is required to be conducted under FAA air carrier safety rules...." 11 C.F.R. § 100.93(a)(3)(iv)(A). A "campaign traveler" is "[a]ny candidate traveling in connection with an election for Federal office or any individual traveling in connection with an election for Federal office on behalf of a candidate or political committee." *Id.* § 100.93(a)(3)(i)(A).

1 The information available in the record provides reason to believe that Generation Y
2 and Schock Victory Committee violated the Act and Commission regulations in connection with
3 Schock's campaign-related flights on non-commercial aircraft. There is no information in the
4 record demonstrating that the Lobair and D&B Jet aircraft were operated by air carriers or
5 commercial operators certificated by the FAA. To the contrary, respondents do not rebut this
6 fact in their responses, and publicly available FAA records show no record of Lobair or D&B Jet
7 being licensed for commercial charter services. Further, the record provides sufficient
8 information from which we can reasonably infer that Schock traveled as a campaign traveler on
9 those flights at issue, *i.e.*, he was a "candidate traveling in connection with an election for
10 Federal office or any individual traveling in connection with an election for Federal office on
11 behalf of a candidate or political committee."¹² In particular, with respect to the Lobair and
12 D&B Jet flights, the complaint specifically alleges that Schock traveled on the flights and the
13 joint response of the committee Respondents fail to rebut that allegation, instead arguing that
14 campaign travel on non-commercial flights was allowed by House Ethics rules.¹³ Schock's
15 leadership PAC, Generation Y, paid for all but one of the flights; and the remaining flight was
16 paid for by Schock Victory Committee, the joint fundraising committee in which Schock's

¹² 11 C.F.R. § 100.93(a)(3)(i)(A).

¹³ Respondents assert that a 2013 change in the internal House Ethics Rules now allows its members to use non-commercial aircraft for all purposes, including trips paid for with campaign funds, and argue that this change reflects a congressional intent to undo the HLOGA prohibition on the use of non-commercial aircraft for campaign travel. This argument is unconvincing. The House of Representatives cannot unilaterally modify the statutory HLOGA prohibition via a change in its internal Ethics Rules. While Congress could enact a statute which modifies the HLOGA prohibition, such a change would require action by both the House of Representatives and the Senate, followed by a signature from the President. That did not happen here. The HLOGA prohibition and the Commission's implementing regulations remain the law for campaign-related travel by House members such as former Representative Schock.

1 authorized committee and leadership PAC were participants.¹⁴ Based on this information, there
2 is reason to believe that Generation Y and Schock Victory Committee violated the Act's
3 prohibition on non-commercial travel.¹⁵

4 In short, the Complaint provides sufficient information to find reason to believe that
5 Schock Victory Committee and Generation Y Fund violated HLOGA when they made
6 disbursements for Schock to fly on non-commercial flights as a campaign traveler on Lobair and
7 D&B Jet aircraft. Accordingly, the Commission finds reason to believe that Schock Victory
8 Committee and Paul Kilgore in his official capacity as treasurer and GOP Generation Y Fund
9 and Paul Kilgore in his official capacity as treasurer each violated 52 U.S.C. § 30114(c)(2) and
10 11 C.F.R. § 113.5(b) by making expenditures for prohibited campaign-related flights on non-
11 commercial aircraft.

¹⁴ See Joint Resp., generally.

¹⁵ The Complaint also alleged Schock may have traveled on an aircraft owned by TC Investments in November 2013. Compl. at 6-9. The Complaint alleges that Respondents thus may have either failed to disclose disbursements or received an excessive in-kind contribution from TC Investments for any such flights. *Id.* at 9-10. The Commission takes no action at this time as to those allegations.

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